

NCA
VOC FOR PGM/FN
BACKGROUND NO. 5-6247
BILL MARSH/MUNICH

NOVEMBER 8, 1978

PROSECUTING NAZI WAR CRIMES: FOR HOW LONG?

ANNCR:

OLD ARGUMENTS HAVE BEEN GIVEN NEW VITALITY IN WEST GERMANY, WHERE ONCE AGAIN SIDES ARE BEING FORMED FOR A DEBATE ON WHETHER THERE SHOULD BE A STATUTE OF LIMITATIONS FOR NAZI WAR CRIMINALS. WE HAVE A BACKGROUND REPORT FROM CORRESPONDENT BILL MARSH IN MUNICH.

VOICE:

THE ISSUE HAS BEEN BANDIED ABOUT FOR SO MANY YEARS NOW THAT ONE AMERICAN CORRESPONDENT SAID THIS WEEK HE DIDN'T THINK A NEW ELEMENT COULD POSSIBLY BE ADDED TO THE DISCUSSION. NEVERTHELESS, DISCUSSION THERE IS, AND ALL POLITICAL PARTIES ARE GIRDING FOR THE FRAY. IN FACT, THERE ARE ALSO A FEW ENGAGED PARTICIPANTS OUTSIDE WEST GERMANY.

THE CRITICAL DATE IS THE THIRTY-FIRST OF DECEMBER, 1979. AS OF THAT DAY -- ACCORDING TO WEST GERMAN LAW -- CRIMES COMMITTED DURING HITLER'S THIRD REICH FOR WHICH CHARGES HAVE NOT YET BEEN LODGED MAY NO LONGER BE PROSECUTED IN WEST GERMAN COURTS.

THIS IS NOT THE FIRST TIME THAT THE STATUTE OF LIMITATIONS EXPIRATION DEADLINE HAS LOOMED. THE FIRST WAS IN 1965, 20 YEARS AFTER WORLD WAR TWO, AND IT WAS ONLY AFTER A MAJOR PARLIAMENTARY BATTLE -- AND THE EXERTION OF SUBSTANTIAL PRESSURE FROM OTHER COUNTRIES -- THAT THE DEADLINE WAS POSTPONED FOR FOUR YEARS, UNTIL 1969. THE LOGIC PRESENTED AT THE TIME FOR DRAWING THE LINE AT 1969 WAS THAT THIS WOULD HAVE MARKED THE 20TH ANNIVERSARY OF THE FEDERAL REPUBLIC. THE DEPUTIES WERE THUS ABLE TO ARGUE THAT THE LEGAL 20-YEAR CUT-OFF HAD BEEN MAINTAINED.

THE FOUR-YEAR POSTPONEMENT ASSUAGED MOST PARLIAMENTARIANS, BUT WHEN 1969 ROLLED AROUND THE DEBATE BEGAN AFRESH, AND BY THE TIME THE DUST HAD CLEARED THE BUNDESTAG HAD AGAIN EXTENDED THE STATUTE. PERSONS ACCUSED OF NAZI-FRA CRIMES WOULD BE SUBJECT TO PROSECUTION UNTIL THE LAST DAY OF 1979.

ALTHOUGH MORE THAN 13 MONTHS REMAIN BEFORE THE DEADLINE, THE ISSUE IS ALREADY WARMING UP. CRITICISM HAS BEEN HEARD FROM POLAND AND ISRAEL, TWO COUNTRIES WHOSE PEOPLE SUFFERED CONSIDERABLY UNDER THE THIRD REICH. THE PARLIAMENTARY FLOOR LEADER OF THE SOCIAL DEMOCRATIC PARTY, HERBERT WEHNER, IS CALLING ON ALL PARTIES TO DO AWAY WITH ANY LIMITATION IN CASES OF MURDER. THIS, HE SAYS, WOULD PERMIT PROSECUTION OF NAZI MURDERERS REGARDLESS OF WHEN THEY ARE DISCOVERED OR CHARGED. JUSTICE MINISTER HANS-JOCHEN VOGEL ASSOCIATES HIMSELF WITH THIS POINT OF VIEW, AS APPARENTLY DO MANY OTHER SOCIAL DEMOCRATS.

BUT THE FREE DEMOCRATIC PARTY -- THE JUNIOR COALITION PARTNER IN THE BONN GOVERNMENT -- HAS AS YET SHOWN NO INCLINATION TO SUPPORT A FURTHER EXTENSION OF THE STATUTE. AND THE OPPOSITION PARTIES -- THE CHRISTIAN DEMOCRATS AND THE CHRISTIAN SOCIAL UNION -- ARE EVEN LESS ENTHUSIASTIC ABOUT THE IDEA.

THE WEST GERMAN JUDICIAL SYSTEM HAS, IN FACT, BEEN QUITE ACTIVE OVER THE YEARS IN THE PROSECUTION OF NAZI CRIMINALS. BETWEEN WAR'S END AND JANUARY THIS YEAR, MORE THAN 84 THOUSAND WAR CRIMES CASES HAD BEEN TRIED IN WEST GERMAN COURTS. ANOTHER FOUR THOUSAND CASES ARE PENDING.

IT SEEMS THAT EVERY TIME THE STATUTE DEBATE HEATS UP IT IS POINTED OUT THAT THE NUMBER OF SURVIVING AT-LARGE WAR CRIMINALS IS JUDGED TO BE VERY SLIGHT. OFFICIALS AT THE CENTRAL OFFICE FOR THE INVESTIGATION OF NAZI CRIMES IN

LUDWIGSBURG SUGGEST THAT IT IS UNLIKELY THAT THERE'S A SINGLE MAJOR NAZI WAR CRIMINAL WHO REMAINS UNDISCOVERED OR AGAINST WHOM CHARGES HAVE NOT ALREADY BEEN LODGED.

BUT THESE JUDGMENTS ARE THOUGHT TO BE INCIDENTAL BY THOSE WHO WANT TO MAKE IT IMPOSSIBLE FOR ANY WAR CRIMINAL TO ESCAPE JUSTICE, REGARDLESS OF WHEN HE IS APPREHENDED AND REGARDLESS OF WHEN CHARGES ARE FILED. FOR MANY IT'S AN EMOTIONAL ISSUE, AND THOSE WHO PREFER ADHERING TO THE LETTER OF THE LAW WILL UNDOUBTEDLY FIND THEMSELVES UNDER CONSIDERABLE PRESSURE FROM VICTIMS OF NAZIISM AT HOME AND ABROAD.

-0-

WJL/RD